

ASSEMBLY BILL

No. 2705

Introduced by Assembly Member Wyland

February 22, 2002

An act to add and repeal Sections 17053.83 and 23673 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as introduced, Wyland. Personal income and bank and corporation taxes: credits: excess energy costs.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2002, and before January 1, 2004, in an amount equal to $\frac{1}{2}$ of the amount paid or incurred by small-to-medium size customers, as defined, in San Diego for excess energy costs, as defined, incurred between June 1, 2000 and February 7, 2001.

This bill would make legislative findings and declarations as to the necessity of a special statute.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that a special
2 law is necessary, and that a general law cannot be made applicable

1 within the meaning of Section 16 of Article IV of the California
2 Constitution, for the following reason:

3 (a) In 1999, when the California Public Utilities Commission
4 (CPUC) determined that San Diego Gas and Electric Company
5 (SDG&E) had paid all of its stranded costs, the statutory rate
6 freeze set forth in Assembly Bill 1890 (Chapter 854, Statutes of
7 1996) was lifted. The following summer wholesale electricity
8 prices soared and SDG&E passed those increased costs on to its
9 customers.

10 (b) With the enactment of Assembly Bill 265 (Chapter 328,
11 Statutes of 2000), retail caps were reestablished for certain
12 customers (residential, small commercial, street lighting,
13 hospitals, schools, and other customers under 100 kilowatt
14 capacity). Subsequent legislation, Senate Bill 43 of the First
15 Extraordinary Session (Chapter 5, Statutes 2001) required the
16 CPUC to extend the rate ceiling to all SDG&E customers, effective
17 February 7, 2001.

18 (c) For the eight-month period between June 2000 and
19 February 2001, a great number of small-to-medium size
20 businesses in the SDG&E service area were inadvertently caught
21 in the utility user category of “large industrial customers.” Many
22 of these entities were forced to lay off workers, reduce operating
23 hours, reconsider capital investments, or take out loans to continue
24 operating, and some ceased operations altogether.

25 (d) These San Diego area small-to-medium size businesses are
26 the only class of California ratepayers who remain liable for the
27 exorbitant wholesale energy costs imposed prior to February 7,
28 2001, and should be granted financial relief.

29 SEC. 2. Section 17053.83 is added to the Revenue and
30 Taxation Code, to read:

31 17053.83. (a) For each taxable year beginning on or after
32 January 1, 2002, and before January 1, 2004, there shall be allowed
33 as a credit against the ‘net tax,’ as defined in Section 17039, an
34 amount equal to one-half of the amount, paid or incurred during
35 the period from June 1, 2000, to February 7, 2001, inclusive, by
36 a small-to-medium size commercial customer, that represents
37 excess energy costs.

38 (b) For purposes of this section, the following definitions
39 apply:

(1) “Small-to-medium size commercial customer” includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule AL-TOU between 100 and 500 kilowatts capacity.

(2) “Excess energy costs” shall be calculated by taking the total amount charged to each small-to-medium size commercial customer during the period June 1, 2000, through February 7, 2001, and subtracting from it the total amount that would have been charged during that period had the rate freeze of \$0.065 per kilowatthour imposed under Chapter 238 of the Statutes of 2000 been in effect for that customer.

(c) Within six months after the effective date of this section, San Diego Gas and Electric Company shall identify the small-to-medium size commercial customers, as defined, who are eligible for the excess energy cost credit, calculate the total amount of excess costs for each of these customers, and communicate it to them.

(d) In the case where the credit allowed exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(e) No deduction may be allowed for that portion of costs paid or incurred for which a credit allowed under this section.

(f) This section shall remain in effect only until December 1, 2004, and as of the date is repealed.

SEC. 3. Section 23673 is added to the Revenue and Taxation Code, to read:

23673. (a) For each taxable year beginning on or after January 1, 2002, and before January 1, 2004, there shall be allowed as a credit against the ‘tax,’ as defined in Section 23036, an amount equal to one-half of the amount, paid or incurred during the period from June 1, 2000, to February 7, 2001, inclusive, by a small-to-medium size commercial customer, that represents excess energy costs.

(b) For purposes of this section, the following definitions apply:

(1) “Small-to-medium size commercial customer” includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule AL-TOU between 100 and 500 kilowatts capacity.

(2) “Excess energy costs” shall be calculated by taking the total amount charged to each small-to-medium size commercial customer during the period June 1, 2000, through February 7, 2001, and subtracting from it the total amount that would have been charged during that period had the rate freeze of \$0.065 per kilowatthour imposed under Chapter 238 of the Statutes of 2000 been in effect for that customer.

(c) Within six months after the effective date of this section, San Diego Gas and Electric Company shall identify the small-to-medium size commercial customers, as defined, who are eligible for the excess energy cost credit, calculate the total amount of excess costs for each of these customers, and communicate it to them.

(d) In the case where the credit allowed exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(e) No deduction may be allowed for that portion of costs paid or incurred for which a credit is allowed under this section.

(f) This section shall remain in effect only until December 1, 2004, and as of the date is repealed.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.